

UNITED STATES PATENT AND TRADEMARK OFFICE

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U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte : BRIAN LAMOTHE, DAVID WILLETT,
IRVIN SCHWARTZENBURG AND
JESSE FREDERICK

Application No. 10/085,298

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on October 31, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing are identified below.

EXAMINER'S ANSWER

An examination of the Image File Wrapper (IFW) reveals that the Grounds of Rejection to be Reviewed on Appeal listed on page 8 of the Appeal Brief filed October 25, 2006, are listed as follows:

1. Whether claims 8, 10 and 62 are unpatentable under 35 USC § 103 in view of Mustafa (U.S. Pat. Appl. Pub. 2003/0028786) and Allen (U.S. Pat. Appl. Pub. 2001/0034567);
2. Whether claims 9, 11-12 and 15 are unpatentable under 35 USC § 103 in view of Mustafa, Allen and Hsu (U.S. Pat. No. 5,812,662); and

3. Whether claim 12 is unpatentable under 35 USC § 103 in view of Mustafa, Allen, Hsu and the reference from Microchip Technology Inc. (hereinafter just “Microchip”).

Page 2 of the Examiner’s Answer mailed October 18, 2006, states that “[t]he appellant’s statement of the grounds of rejection to be reviewed on appeal is correct.” However, it should be noted that the Final Rejection mailed May 15, 2006 and the Examiner’s Answer mailed October 18, 2006, fails to include claim 14 in the statement of the grounds of rejection. Correction is required.

Evidence Relied Upon

The Evidence Relied Upon section of the Examiner’s Answer mailed October 18, 2006, is defective. The Examiner relied upon the Microchip Technology Inc. reference in the statement of the grounds of rejection and must be included in the “Evidence Relied Upon” section.

In accordance with MPEP § 1207.02, the “Evidence Relied Upon” should include:

A listing of the **>evidence< relied on >(e.g., patents, publications, admitted prior art)<, and, in the case of nonpatent references, the relevant page or pages.

Correction is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the examiner:

- 1) for submission of an Examiner's Answer which clarifies the rejection of claim 14 and correction of the Evidence Relied Upon section; and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
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By: *Patrick J. Nolan*
PATRICK J. NOLAN
Deputy Chief Appeals Administrator
(571) 272-9797

PJN/tsj

cc: CONLEY ROSE, P.C.
DAVID A ROSE
P. O. BOX 3267
HOUSTON, TX 77253-3267